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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,926	01/30/2001	Robert Raymond Sealey	95-454	9079

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EXAMINER

PHAN, JOSEPH T

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 07/01/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/771,926

Applicant(s)

SEALEY ET AL.

Examiner

Joseph T Phan

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 6, 8, 12, 17-19, and 24-25 rejected under 35 U.S.C. 102(e) as being anticipated by Tverskoy et al., Patent #6,341,160.

Regarding claims 1, 12, and 19 Tverskoy teaches a means, method, and computer readable medium in a user computer for sending a voice message, the method and computer comprising:

means for recording a voice message based on encoding parameters recognized by a voice messaging system (col.4 line 62-col.5 line 9 or col.6 lines 47-59);

means for storing the voice message within a data file having a selectable Multipurpose Internet Mail Extension (MIME) type recognizable by the voice messaging system as a voice message (col.5 lines 1-13); and

means for outputting the data file using a prescribed messaging protocol for transfer to a destination voice mailbox accessible by the voice messaging system for a corresponding voice messaging subscriber(col.5 lines 24-61; user's email inbox is a voice mailbox).

Regarding claims 6, 17, and 24, Tverskoy teaches the method, means, and medium of claims 1, 12, and 21 wherein the outputting step includes outputting the data file using an executable e-mail client configured for sending the data file using a prescribed e-mail protocol as the prescribed messaging protocol (col.5 lines 1-14).

Regarding claims 7, 18, and 25, Tverskoy teaches the method, means, and medium of claims 6, 17, and 24 wherein the outputting step includes outputting the data file to the destination voice mailbox according to one of SMTP protocol and IMAP protocol (col.5 lines 24-30).

Regarding claim 8, Tverskoy teaches a user computer comprising:
a recorder configured for recording a voice message input by a user according to selected encoding parameters recognized by a voice messaging system (32 Fig.1 and col.6 lines 48-59), the recorder configured for storing the voice message as a data file having a selectable MIME type recognizable by the voice messaging system as a voice message (col.5 lines 6-14; and
an e-mail client configured for sending the data file to a destination voice mailbox, using a prescribed messaging protocol, enabling access by the voice messaging system for a corresponding voice messaging subscriber (col.6 lines 48-59).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5, 9-11, 13-16, and 20-23 rejected under 35 U.S.C. 103(a) as being unpatentable over Tverskoy in view of Luzeski et al., Patent #6,301,245.

Regarding claims 2-3, 9-10, 13-14, and 20-21, Tverskoy discloses the method, means, user computer, and computer readable medium of claims 1, 8, 12, and 19 and using an executable browser

Tverskoy does not expressly disclose wherein the recording step includes encoding the voice message using mu-law encoding at an encoding rate of 8 kHz according to any one of G.711, G.729, and GSM encoding protocols.

Luzeski discloses encoding a voice message discloses wherein the recording step includes encoding the voice message using mu-law encoding at an encoding rate of 8 kHz according to any one of G.711, G.729, and GSM encoding protocols (appendix of col.24 lines 41-48)

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to encode voice messages at a rate of 8 kHz according to G.711 protocols.

One of ordinary skill in the art would have been motivated to do this as encoding voice messages from analog to digital format is necessary and encoding at 8 kHz according to G.711 protocol is a standard rate and protocol to use among a variety of other choices dependent on the design requirement of the system.

Regarding claims 4, 15, and 22, Tverskoy teaches the method, means, and medium of claims 3, 14, and 21 wherein the storing step includes generating a MIME extension recognizable by the voice messaging system and based on the one encoding protocol utilized by the executable browser plug-in resource (col.5 lines 1-14 and Luzeski, labels 22 of Fig.3 through Fig.4H).

Regarding claims 5, 16, and 23, Tverskoy teaches the method, means, and medium of claims 3, 14, and 21 further comprising reviewing the voice message by the executable browser plug-in resource prior to the outputting step (*col.6 lines 48-59; it is known that the user can review the voice message when it is stored and before it is sent*).

Regarding claim 11, Tverskoy teaches the user computer of claim 9, wherein the recorder selects the MIME type for the data file based on the one encoding protocol used to encode the voice message (col.5 lines 6-14).

Response to Arguments

3. The 112 2nd paragraph rejection on claims 2-3, 13-14, and 20-21 has been withdrawn.

Applicant's arguments filed 4/16/03 have been fully considered but they are not persuasive.

Regarding independent claims 1, 8, 12, and 19, Applicant argues that the prior art of record, Tverskoy et al., does not disclose use of encoding parameters recognized by a voice messaging system and outputting a data file to a destination voice mailbox

accessible by the voice messaging system. Hence, applicant states, the independent claims are distinguishable from Tverskoy since the disclosed email box does not read on the claimed voice mailbox.

Examiner respectfully disagrees as Tverskoy does anticipate the claimed invention.

Tverskoy teaches the use of encoding parameters recognized by a voice messaging system(20 Fig.1 and col.3 lines 23-33; encoding parameters is necessary to convert analog to digital and for compressing the voice message) and outputting a data file to a destination voice mailbox accessible by the voice messaging system(col.4 lines 62-col.5 line 13). The mailbox for receiving email in Tverskoy is also a voice mailbox(col.2 lines 6-22 and col.6 lines 47-59) as the user can access both voice and data messages with it. Therefore the claimed voice mailbox is anticipated by Tverskoy's email account. Applicant argues that Tverskoy's voice messaging owner is not the same as the claimed voice messaging subscriber(i.e. one who subscribes to the service), Examiner disagrees as the owner of a voice messaging system is subscribed to a voice messaging service and therefore the owner is a subscriber.

Furthermore, Tverskoy's system allows a user to locally record a voice message(34 or 46 of Fig.1 and col.2 line 57-col.3 line 11 and col.5 lines 41-53) and be able to send the locally stored recorded voice message via email to a subscriber(col.6 lines 48-59).

Regarding the 103 rejection for claims 2-5, 9-11, 13-16, and 20-23, Applicant argues that Luzeski et al., and Tverskoy cannot be combined as there is no suggestion or incentive to do so. Examiner respectfully disagrees as Luzeski teaches a messaging system that a subscriber can access through the internet to obtain the subscriber's

voice, fax, and email messages (Luzeski's abstract) in one location. Tverskoy also teaches that a subscriber can obtain his voice and email messages via the internet(Tverskoy col.5 lines 54-61). Therefore, there is an incentive by one of ordinary skill in the art to combine the teachings of Luzeski and Tverskoy's inventions [In re Fine, 5 USPQ2d 1596, 1600 (Fed.Cir.1988)] to improve upon the capabilities and functionality of Tverskoy's system.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph T Phan whose telephone number is 703-305-3206. The examiner can normally be reached on M-TH 8:30-6:30, in every other Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 703-305-4895. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

JTP
June 23, 2003

FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

A handwritten signature in black ink, appearing to read 'Fan Tsang', with a stylized flourish at the end.